

# TITLE 35—PATENTS

*This title was enacted by act July 19, 1952, ch. 950, § 1, 66 Stat. 792*

Part	Sec.
<b>I. Patent and Trademark Office .....</b>	<b>1</b>
<b>II. Patentability of Inventions and Grant of Patents .....</b>	<b>100</b>
<b>III. Patents and Protection of Patent Rights .....</b>	<b>251</b>
<b>IV. Patent Cooperation Treaty .....</b>	<b>351</b>

## AMENDMENTS

1984—Pub. L. 98-622, title IV, § 403(b), Nov. 8, 1984, 98 Stat. 3392, added item IV.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 35

<i>Title 35 Former Sections</i>	<i>Title 35 New Sections</i>
1 .....	1
2 .....	3
3 .....	2
4 .....	4
5 .....	5
6 .....	6
7 .....	7
10 .....	8
11 .....	31, 32
11a .....	33
12 .....	22
13 .....	11
14 .....	10
14a .....	(See former § 78)
15 .....	12
16 .....	11(a) 1
17-19 .....	Rep.
20 .....	14
21 .....	21
22 .....	Rep.
23 .....	Rep.
31 .....	101, 102, 161
32 .....	102(d), 119, 172
32a, 32b .....	Rep.
33 .....	111, 112, 162
34 .....	113, 114
35 .....	115
36 .....	131
37 .....	133, 267
38 .....	Rep.
39 .....	153
40 .....	154
40a-40d .....	Rep.
41 .....	151
42-42f .....	Rep.
43 .....	Rep.
44 .....	152
45 .....	266
46 .....	147
47 .....	261
48 .....	Rep.
49 .....	287
50 .....	292
51 .....	132, 135
52 .....	135
53 .....	23
54-56 .....	24
56a .....	164
57 .....	134
58, 59 .....	Rep.
59a .....	141; T. 28 § 1542
60 .....	142
61 .....	143
62 .....	144
63 .....	145, 146
64 .....	251, 252
65 .....	253
66 .....	291
67 .....	281, 284
68 .....	T. 28 § 1498
69 .....	102(g), 282
70 .....	283-286, 290

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 35—Continued

<i>Title 35 Former Sections</i>	<i>Title 35 New Sections</i>
71 .....	288
72 .....	102, 104
72a .....	146, 291
73 .....	171
74, 75 .....	289
76 .....	114
77 .....	173
78 .....	12, 13, 41
79 .....	42
80-87 .....	Rep.
88 .....	254
89-96 .....	Elim.
101-108 .....	Elim.
109 .....	104
110-118a .....	Elim.
119 .....	T. 50 App. § 2371
151 .....	181
152 .....	182
153 .....	183
154 .....	184
155 .....	185
156 .....	186
157 .....	187
158 .....	188
159 .....	Rep.

## CITATION

Section 1 of act July 19, 1952, ch. 950, 66 Stat. 792, provided in part that this title may be cited as “Title 35, United States Code, section —.”

## SEPARABILITY

Section 3 of act July 19, 1952, ch. 950, 66 Stat. 815, provided that: “If any provision of Title 35, as enacted by section 1 hereof, is declared unconstitutional or is held invalid, the validity of the remainder of this title shall not be affected.”

## EFFECTIVE DATE; SAVINGS PROVISION

Section 4 of act July 19, 1952, ch. 950, 66 Stat. 815, provided that:

“(a) This Act [enacting this title] shall take effect on January 1, 1953 and shall apply to all applications for patent filed on or after such date and to all patents granted on such applications. It shall apply to further proceedings on applications pending on such date and to patents granted on such applications except as otherwise provided. It shall apply to unexpired patents granted prior to such date except as otherwise provided.

“(b) Section 102(d) of Title 35, as enacted by section 1 hereof, shall not apply to existing patents and pending applications, but the law previously in effect, namely the first paragraph of R. S. 4887 [first paragraph of section 32 of former Title 35], shall apply to such patents and applications.

“(c) Section 119, second paragraph, of Title 35 as enacted by section 1 hereof shall not apply to existing patents.

“(d) The period of one year specified in section 102(b) of Title 35 as enacted by section 1 hereof shall not apply in the case of applications filed before August 5, 1940, and patents granted on such applications, and with respect to such applications and patents, said period is two years instead of one year.

“(e) Nothing contained in Title 35, as enacted by section 1 hereof, shall operate to nullify any judicial finding prior to the effective date of this Act on the validity of any patent by a court of competent jurisdiction.

“(f) Nothing in Title 35, as enacted by section 1 hereof, shall affect any provision of the Atomic Energy Act of 1946 (Aug. 1, 1946, ch. 724, 60 Stat. 755) [§2011 et seq. of Title 42, The Public Health and Welfare].

“(g) The period of one year specified in section 4 of Title 35 as enacted by section 1 hereof shall not apply in the case of applications filed before the effective date of this Act.

“(h) The repeal of sections 1–9, 11, 12 of the Act of Congress approved February 1, 1952 (ch. 4, 66 Stat. 3) [sections 151 to 159 of former Title 35], shall not affect any rights or liabilities existing on the date of approval of this Act [July 19, 1952]. An order of secrecy issued under or in effect under the repealed Act and in effect on the date of approval of this Act, shall be considered as issued under this Act, and any claims arising under the repealed Act or subject to presentation and determination pursuant thereto and unsettled as of the effective date of this Act, may be presented and determined pursuant to the provisions of this Act [this title].”

#### REPEALS

Section 5 of act July 19, 1952, ch. 950, 66 Stat. 815, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large codified in this Act with the proviso that “Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.”

#### TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 11 section 101; title 15 sections 278n, 3703; title 17 section 912; title 42 section 12002.

### PART I—PATENT AND TRADEMARK OFFICE

Chap.		Sec.
1.	<b>Establishment, Officers, Functions</b>	<b>1</b>
2.	<b>Proceedings in the Patent and Trademark Office</b> .....	<b>21</b>
3.	<b>Practice before<sup>1</sup> Patent and Trademark Office</b> .....	<b>31</b>
4.	<b>Patent Fees; Funding; Search Systems</b> .....	<b>41</b>

#### AMENDMENTS

1991—Pub. L. 102–204, §5(d)(2)(D), Dec. 10, 1991, 105 Stat. 1640, substituted “before” for “Before the” in chapter 3 heading and inserted “; Funding; Search Systems” after “Fees” in chapter 4 heading.

1975—Pub. L. 93–596, §1, Jan. 2, 1975, 88 Stat. 1949, substituted “PATENT AND TRADEMARK OFFICE” for “PATENT OFFICE” in part heading and in headings for chapters 2 and 3.

### CHAPTER 1—ESTABLISHMENT, OFFICERS, FUNCTIONS

Sec.	
1.	Establishment.
2.	Seal.
3.	Officers and employees.
4.	Restrictions on officers and employees as to interest in patents.
[5.]	Repealed.]
6.	Duties of Commissioner.
7.	Board of Patent Appeals and Interferences.
8.	Library.
9.	Classification of patents.
10.	Certified copies of records.
11.	Publications.

<sup>1</sup> So in original. Probably should be capitalized.

Sec.	
12.	Exchange of copies of patents with foreign countries.
13.	Copies of patents for public libraries.
14.	Annual report to Congress.

#### AMENDMENTS

1984—Pub. L. 98–622, title II, §201(b), Nov. 8, 1984, 98 Stat. 3386, substituted “Patent Appeals and Interferences” for “Appeals” in item 7.

1972—Pub. L. 92–310, title II, §208(b), June 6, 1972, 86 Stat. 203, struck out item 5 “Bond of Commissioner and other officers”.

#### CROSS REFERENCES

Access to facilities for study, research and illustration in the Patent and Trademark Office, see section 91 of Title 20, Education.

Audit of accounts, see section 3523 of Title 31, Money and Finance.

Constitutional provisions, see Const. Art. 1, §8, cl. 8.

Department of Commerce, jurisdiction and supervision of the Patent and Trademark Office, see section 1511 of Title 15, Commerce and Trade.

Records, books, etc., of Patent and Trademark Office, admissibility of copies as evidence, see section 1744 of Title 28, Judiciary and Judicial Procedure.

### § 1. Establishment

The Patent and Trademark Office shall continue as an office in the Department of Commerce, where records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law.

(July 19, 1952, ch. 950, 66 Stat. 792; Jan. 2, 1975, Pub. L. 93–596, §1, 88 Stat. 1949.)

#### HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §1 (R.S. 475 and Executive Order 4175, Mar. 17, 1925).

The word “all” is omitted from the corresponding section of the existing statute and “except as otherwise provided by law” added, since some old records are kept in the National Archives, see 44 U.S.C., 1946 ed., ch. 8A.

The word “models” has been omitted to remove emphasis on models since they are no longer generally required. They are included by the word “things.”

The phrase “and to trade-mark registrations” is added. There is no enactment corresponding to this section in the trade-mark law. The original chapter of the Revised Statutes containing this section deals with the Patent Office as such in its administration of trademarks as well as patents. This is explicitly brought out in some of the corresponding sections of the present chapter. Changes in language are made.

#### AMENDMENTS

1975—Pub. L. 93–596 substituted “Patent and Trademark Office” for “Patent Office”.

#### CHANGE OF NAME

Section 3 of Pub. L. 93–596 provided that: “The terms ‘Patent Office’ and ‘Commissioner of Patents’ in all laws of the United States shall mean ‘Patent and Trademark Office’ and ‘Commissioner of Patents and Trademarks’, respectively.”

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–596 effective Jan. 2, 1975, see section 4 of Pub. L. 93–596, set out as a note under section 1111 of Title 15, Commerce and Trade.

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–418, §9001, Aug. 23, 1988, 102 Stat. 1563, provided that: “This subtitle [subtitle A (§§9001–9007) of